



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

ZACHARY W. CARTER  
*Corporation Counsel*

JOHN L. GARCIA  
*Assistant Corporation Counsel*  
Phone: (212) 356-5053  
Fax: (212) 356-3509  
johgarci@law.nyc.gov

February 21, 2017

**BY ECF**

Honorable Cheryl L. Pollack  
United States Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Rodney Smith, et al. v. City of New York, et al.  
15-CV-03859 (PKC) (CLP)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and one of the attorneys assigned to represent Defendants City of New York, Joseph Ponte, and William Clemons in the above-referenced matter. Defendants, on behalf of both parties, respectfully request an adjournment of the upcoming settlement conference scheduled for February 23, 2017. This request is made with the consent of Plaintiffs' counsel, Robert Marinelli, Esq. The Court previously granted two requests for an adjournment of the settlement conference.

The settlement conference concerns the allegations brought by 22 Plaintiffs<sup>1</sup> that they were subjected to excessive force by correction officers on or about February 16, 2015, inside the Otis Bantum Correctional Center on Rikers Island. As Your Honor may recall, the medical records of the 22 Plaintiffs in this case are quite voluminous. The thousands of pages of medical records are still being reviewed by new defense counsel as this case was only recently transferred from an attorney who is no longer with this Office. Additionally, Counsel for defendants will not have authority to settle this case by the February 23rd settlement conference, and 11 of the 22 plaintiffs have not yet provided settlement demands. Accordingly, the parties do not believe a settlement conference at this time would be productive.

---

<sup>1</sup> In Defendants' prior application dated January 4, 2017, we mistakenly stated that there were only 17 plaintiffs. However, there are 22 plaintiffs in this action.

For the foregoing reasons, Defendants, on behalf of both parties, respectfully request that the Court adjourn the upcoming settlement conference to the afternoon of March 23, 2017 or the afternoon of March 27, 2017, at a time in that is convenient to the Court, or any date thereafter that the Court is available.

Defendants thank the Court for its consideration herein.

Respectfully submitted,

s/  
\_\_\_\_\_  
John L. Garcia  
*Assistant Corporation Counsel*

cc: Robert Marinelli, Esq. (by ECF)  
*Attorney for Plaintiffs*